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09/909,885	07/23/2001	Hiroshi Sato	MA-496-US	2326

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/909,885
Filing Date: July 23, 2001
Appellant(s): SATO ET AL.

Thomas J. Perkins, Reg. No. 33,027
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed May 11, 2006 appealing from the Nonfinal Office action mailed August 26, 2004.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,226,618	Downs et al	5-2001

(9) Grounds of Rejection

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a _person having ordinary skill in the _art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 29-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Downs et al (US 6,226,618) in view of James et al (US 7,031,943).

Downs discloses a method and apparatus for securely providing data to a user's system, where the data is encrypted so as to only be decryptable by one holding the decrypting key. This where the data decrypting key is encrypted using a first public key, an the encrypted data being accessible to the user's system, the method comprising the steps of transferring the encrypted data decrypting key to a clearing house that possesses a first private key, which corresponds to a first public key; decrypting the data decrypting key using the first private key; re-encrypting the data decrypting key using a first second public key; transferring the re-encrypted data decrypting key to the user's system, the user's system possessing a second private key, which corresponds to the second public key; and decrypting the re-encrypted data decrypting key using the second private key. (e.g. col 3 ln 40-55,-col 9 ln 62 - cot 10 ln 3, col 43 ln 58-col 44 ln 4).

Although nothing in Downs specifically mentions this feature, it would be obvious, among the many features described in Downs to extend the concept of having a key which can expire after a time, to having that time chosen by the consumer or user, through, for example, the choice of price for use. This rationale is reasoned from established business principle. One example of such established business practice can classically be found in the car rental business. The customer traditionally decides whether to rent a car for hours, days, months or years.

(10) Response to Argument

Appellant's sole argument in the brief is that nothing in the cited prior art discloses or suggests having a customer define a rental period where a key would be useable only during a the rental period defined by the customer, nor are such features well-known in the art. The non-final office action takes official notice that such customer-defined rental terms are old and well-known. Because "established business practice" was taken for the first time in said nonfinal office action, Examiner did not have the opportunity to submit references showing the subject matter of the established business practice.

Although nothing in Downs specifically mentions this feature, it would be obvious, among the many features described in Downs to extend the concept of having a key which can expire after a time, to having that time chosen by the consumer or user, through, for example, the choice of price for use. This rationale is reasoned from established business principle. One example of such established business practice

can classically be found in the car rental business. The customer traditionally decides whether to rent a car for hours, days, months or years.

Thus it would be obvious to utilize a key for authentication of the user and for the use of the digital item.

For the above reasons, it is believed that the rejections should be sustained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Respectfully submitted,

Cristina Owen Sherr

Au 3621

Conferees:

Hyung "Sam" Sough

Calvin Hewitt, II